

APPEAL, ECF

**U.S. District Court**  
**United States District Court for the Southern District of New York (White Plains)**  
**CIVIL DOCKET FOR CASE #: 7:06-cv-12893-CLB**

Poggioli v. Murphy et al  
Assigned to: Judge Charles L. Brieant  
Related Case: 7:07-cv-06674-CLB  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/03/2006  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Joseph A. Poggioli**

represented by **Jonathan Lovett**  
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**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Anthony Murphy**  
*Individually*

represented by **Lalit Kumar Loomba**  
Wilson, Elser, Moskowitz, Edelman &  
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**ATTORNEY TO BE NOTICED**

**Defendant**

**Kevin Kealy**  
*Individually*

represented by **Lalit Kumar Loomba**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Peter Alexander Meisels**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Patrick J. Carroll**  
*Individually*

represented by **Lalit Kumar Loomba**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Peter Alexander Meisels**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Myron Joseph**  
*Individually*  
**TERMINATED: 07/27/2007**

represented by **Lalit Kumar Loomba**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Peter Alexander Meisels**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**City of New Rochelle N.Y.**

represented by **Lalit Kumar Loomba**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Peter Alexander Meisels**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
10/17/2007		Document #29 Transcript was sent to the Court of Appeals on 10/17/2007. (rj) (Entered: 10/17/2007)
10/15/2007	29	TRANSCRIPT of proceedings held on May 25, 2007/ 9:30am before Judge Charles L. Brieant. Court Reporter: Sue Ghorayeb. (rj) (Entered: 10/15/2007)

		10/16/2007)
09/19/2007	<u>28</u>	AMENDED ANSWER to <u>27</u> Amended Complaint. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Meisels, Peter) (Entered: 09/19/2007)
08/24/2007	<u>27</u>	FIRST AMENDED COMPLAINT amending <u>1</u> Complaint against Anthony Murphy, Kevin Kealy, Patrick J. Carroll, City of New Rochelle N.Y..Document filed by Joseph A. Poggioli. Related document: <u>1</u> Complaint filed by Joseph A. Poggioli.(jma) (Entered: 08/24/2007)
08/24/2007	<u>26</u>	NOTICE OF APPEARANCE by Drita Nicaaj on behalf of Joseph A. Poggioli (Nicaaj, Drita) (Entered: 08/24/2007)
08/20/2007		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>3</u> Affidavit of Service Complaints filed by Joseph A. Poggioli, <u>20</u> Endorsed Letter, <u>5</u> Affidavit of Service Complaints filed by Joseph A. Poggioli, <u>21</u> Declaration in Support of Motion, filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>8</u> Endorsed Letter, <u>14</u> Declaration in Support of Motion,, filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>6</u> Affidavit of Service Complaints filed by Joseph A. Poggioli, <u>23</u> Letter, filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>15</u> Memorandum of Law in Support of Motion filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>24</u> Order on Motion for Summary Judgment,, <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> . filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>18</u> Counter Statement to Rule 56.1 filed by Joseph A. Poggioli, <u>1</u> Complaint filed by Joseph A. Poggioli, <u>2</u> Affidavit of Service Complaints filed by Joseph A. Poggioli, <u>16</u> Memorandum of Law in Opposition to Motion filed by Joseph A. Poggioli, <u>4</u> Affidavit of Service Complaints filed by Joseph A. Poggioli, <u>19</u> Notice of Appearance filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>7</u> Endorsed Letter, <u>17</u> Affirmation in Opposition to Motion filed by Joseph A. Poggioli, <u>9</u> Answer to Complaint filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>10</u> Scheduling Order,, <u>22</u> Reply Memorandum of Law in Oppisition to Motion filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>13</u> Affidavit in Support of Motion filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>12</u> Rule 56.1 Statement filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy, <u>25</u> Notice of Appeal filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Kevin Kealy were transmitted to the U.S. Court of Appeals. (fc) (Entered: 08/20/2007)
08/17/2007		Transmission of Notice of Appeal to the District Judge re: <u>25</u> Notice of Appeal. (cg) (Entered: 08/17/2007)

08/17/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>25</u> Notice of Appeal. (cg) (Entered: 08/17/2007)
08/17/2007	<u>25</u>	NOTICE OF APPEAL from <u>24</u> Order on Motion for Summary Judgment,,,, Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, City of New Rochelle N.Y.. Filing fee \$ 455.00, receipt number E615877. (cg) (Entered: 08/17/2007)
07/27/2007	<u>24</u>	MEMORANDUM AND ORDER granting in part and denying in part <u>11</u> Motion for Summary Judgment....Accordingly, the motion for summary judgment as to Defendant Joseph is granted....Plaintiff may serve and file an amended complaint within thirty (30) days, if so advised, which may set forth any First Amendment protected statements made by Plaintiff in his work as PBA President, relied on as a motive for retaliation, and also to allege instances of unequal treatment or selective prosecution, which will be reolie on. The Court declines to make a finding contemplated by Rule 54(b) Fed. R. Civ. P. at this time. A status conference with counsel shall be held on October 26, 2007, which conference shall also extend to Poggioli v. Carroll, 07Civ6674. So Ordered.. (Signed by Judge Charles L. Brieant on 7/26/07) (fk) (Entered: 07/30/2007)
07/27/2007	<u>23</u>	LETTER addressed to Judge Charles L. Brieant from Peter Meisels dated 7/25/07 re:...mention citations to Mitchell v. Forsyth, 472 U.S. 511,525 (1985).... Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y..(fk) (Entered: 07/27/2007)
05/25/2007		Minute Entry for proceedings held before Judge Charles L. Brieant : Oral Argument held on 5/25/2007 re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> . filed by Patrick J. Carroll, City of New Rochelle N.Y., Anthony Murphy, Myron Joseph, Kevin Kealy. Motion is fully submitted decision reserved. Discovery is stayed pending resolution of this motion and the penalty issue- (Court Reporter Sue Ghorayeb) (jma) (Entered: 05/31/2007)
04/20/2007		MEMORANDUM TO THE DOCKET CLERK: Oral argument heard before Hon. Charles L. Brieant on 04/20/2007. Oral argument heard and continued to 5/25/2007. Court Reporter, Christina Arends-Dieck (jma) (Entered: 04/26/2007)
04/13/2007	<u>22</u>	REPLY MEMORANDUM OF LAW in Opposition re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Meisels, Peter) (Entered: 04/13/2007)
04/13/2007	<u>21</u>	DECLARATION of Peter Meisels in Support re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Attachments: # <u>1</u> Exhibit R)(Meisels, Peter) (Entered: 04/13/2007)
04/05/2007	<u>20</u>	ENDORSED LETTER addressed to Judge Charles L. Brieant from Peter A. Meisels dated 4/4/2007 re: request that the defendants have until

		4/13/2007 to serve and file a reply...ENDORSED: Application granted. SO ORDERED: (Signed by Judge Charles L. Brieant on 4/5/2007) "The Clerk's Office Has Mailed Copies".(mde) (Entered: 04/06/2007)
04/03/2007	<u>19</u>	NOTICE OF APPEARANCE by Peter Alexander Meisels on behalf of Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y. (Meisels, Peter) (Entered: 04/03/2007)
04/02/2007	<u>18</u>	COUNTER STATEMENT TO Document filed by Joseph A. Poggioli. (Nicaj, Drita) (Entered: 04/02/2007)
04/02/2007	<u>17</u>	AFFIRMATION of Drita Nicaj in Opposition re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Joseph A. Poggioli. (Attachments: # <u>1</u> # <u>2</u> )(Nicaj, Drita) (Entered: 04/02/2007)
04/02/2007	<u>16</u>	MEMORANDUM OF LAW in Opposition re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Joseph A. Poggioli. (Nicaj, Drita) (Entered: 04/02/2007)
03/02/2007	<u>15</u>	MEMORANDUM OF LAW in Support re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Loomba, Lalit) (Entered: 03/02/2007)
03/02/2007	<u>14</u>	DECLARATION of Peter A. Meisels, Esq. in Support re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I# <u>10</u> Exhibit J# <u>11</u> Exhibit K# <u>12</u> Exhibit L# <u>13</u> Exhibit M# <u>14</u> Errata N# <u>15</u> Exhibit O# <u>16</u> Exhibit P# <u>17</u> Exhibit Q)(Loomba, Lalit) (Entered: 03/02/2007)
03/02/2007	<u>13</u>	AFFIDAVIT of Dorothy Allen in Support re: <u>11</u> MOTION for Summary Judgment <i>with affidavit of service</i> .. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Loomba, Lalit) (Entered: 03/02/2007)
03/02/2007	<u>12</u>	RULE 56.1 STATEMENT. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Loomba, Lalit) (Entered: 03/02/2007)
03/02/2007	<u>11</u>	MOTION for Summary Judgment <i>with affidavit of service</i> . Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y..Responses due by 3/15/2007,Return Date set for 4/13/2007 10:00 AM.(Loomba, Lalit) (Entered: 03/02/2007)
01/05/2007		Minute Entry for proceedings held before Judge Charles L. Brieant : Initial Pretrial Conference held on 1/5/2007. Plaintiff's attorney Jonathan Lovett and Defendant attorney Peter Meisels present. Civil Case Management plan filed. FPTC 7/20/07 at 9:00 AM. See transcript. Brieant, J. Submitted by: Frank Cangelosi, Deputy Court Clerk (Court Reporter Susan Ghorayeb) (ll, ) (Entered: 01/09/2007)



01/05/2007	<u>10</u>	SCHEDULING ORDER: Amended Pleadings due by 2/5/2007. Joinder of Parties due by 2/5/2007. Deposition due by 5/15/2007. Discovery due by 7/6/2007. Interrogatories no later than 03/15/2007. First request for production of no later than 03/15/2007. Any further interrogatories to be served no later than 05/15/2007. Case Management Conference set for 7/20/2007 09:00 AM in Courtroom 1, 300 Quarropas Street, White Plains, NY 10601 before Judge Charles L. Brieant. (Signed by Judge Charles L. Brieant on 01/05/2007) (jma, ) (Entered: 01/08/2007)
12/20/2006	<u>9</u>	ANSWER to Complaint. Document filed by Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Loomba, Lalit) (Entered: 12/20/2006)
12/05/2006	<u>8</u>	ENDORSED LETTER addressed to Judge Charles L. Brieant from Peter Meisels dated 11/29/06 re: Request for an extension of time to answer the complaint to 12/20/06. Endorsement: Application Granted. So Ordered.. (Signed by Judge Charles L. Brieant on 12/4/06) (fk, ) (Entered: 12/06/2006)
12/01/2006	<u>7</u>	ENDORSED LETTER addressed to Judge Charles L. Brieant from Peter Meisels dated 11/29/06 re: Request for an extention of time to answer or respond until 12/20/06. Endorsement: Application Granted.. (Signed by Judge Charles L. Brieant on 11/30/06) (fk, ) (Entered: 12/05/2006)
11/10/2006	<u>6</u>	AFFIDAVIT OF SERVICE. Anthony Murphy served on 11/8/2006, answer due 11/28/2006. Service was accepted by Francine Simmons, Senior Clerk. Service was made by Mail 11/9/06. Document filed by Joseph A. Poggioli. (Lovett, Jonathan) (Entered: 11/10/2006)
11/10/2006	<u>5</u>	AFFIDAVIT OF SERVICE. Kevin Kealy served on 11/8/2006, answer due 11/28/2006. Service was accepted by Francine Simmons, Senior Clerk. Service was made by Mail 11/9/06. Document filed by Joseph A. Poggioli. (Lovett, Jonathan) (Entered: 11/10/2006)
11/10/2006	<u>4</u>	AFFIDAVIT OF SERVICE. Myron Joseph served on 11/8/2006, answer due 11/28/2006. Service was accepted by Francine Simmons, Senior Clerk. Service was made by Mail 11/9/06. Document filed by Joseph A. Poggioli. (Lovett, Jonathan) (Entered: 11/10/2006)
11/10/2006	<u>3</u>	AFFIDAVIT OF SERVICE. City of New Rochelle N.Y. served on 11/8/2006, answer due 11/28/2006. Service was accepted by Michel Brooks, Litigation Clerk. Document filed by Joseph A. Poggioli. (Lovett, Jonathan) (Entered: 11/10/2006)
11/10/2006	<u>2</u>	AFFIDAVIT OF SERVICE. Patrick J. Carroll served on 11/8/2006, answer due 11/28/2006. Service was accepted by Francine Simmons, Senior Clerk. Service was made by Mail 11/9/06. Document filed by Joseph A. Poggioli. (Lovett, Jonathan) (Entered: 11/10/2006)
11/03/2006		Magistrate Judge George A. Yanthis is so designated. (dcr, ) (Entered: 11/03/2006)
11/03/2006		Case Designated ECF. (dcr, ) (Entered: 11/03/2006)

11/03/2006		SUMMONS ISSUED as to Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (dcr, ) (Entered: 11/03/2006)
11/03/2006	<u>1</u>	COMPLAINT against Anthony Murphy, Kevin Kealy, Patrick J. Carroll, Myron Joseph, City of New Rochelle N.Y.. (Filing Fee \$ 350.00, Receipt Number 590318) Document filed by Joseph A. Poggioli.(dcr, ) (Entered: 11/03/2006)

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